



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 28th day of January, 2000

Applications of

AMERISTAR AIR CARGO, INC.

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign
charter air transportation of property and mail

Served: January 28, 2000

Dockets OST-99-6221 - 8
OST-99-6222 - 8

**ORDER TO SHOW CAUSE
PROPOSING ISSUANCE OF CERTIFICATE AUTHORITY**

Summary

By this order, we tentatively conclude that Ameristar Air Cargo, Inc., is a citizen of the United States, and is fit, willing, and able to provide interstate and foreign charter air transportation of property and mail, and should be issued certificates of public convenience and necessity for such operations.

Background

Section 41102 of Title 49 of the United States Code (Transportation) ("the statute") directs us to determine whether applicants for certificate authority to provide interstate and foreign charter air transportation are fit, willing, and able to perform such transportation, and to comply with the statute and the regulations of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

On September 10, 1999, Ameristar Air Cargo, Inc., filed applications in Dockets OST-99-6221 and OST-99-6222 for certificates to provide interstate and foreign charter air

transportation of property and mail pursuant to section 41102. Ameristar accompanied its applications with the information required by section 204.3 of our regulations.¹

Other than the answer discussed below under **Part 215 Issues**, we have received no answers to the applications. Further, no special issues regarding the applicant have come to our attention that would warrant oral hearing procedures. Under these circumstances, we propose to decide the issue of fitness on the basis of the written record, and we tentatively conclude that Ameristar is a U.S. citizen and is fit, willing, and able to operate its proposed interstate and foreign charter all-cargo service. However, we will give interested persons an opportunity to show cause why we should not adopt as final these tentative findings and conclusions.

The Company

Ameristar, based in Addison, Texas, was incorporated under the laws of the State of Texas in July 1999, for the purpose of providing charter cargo operations with large jet aircraft. Ameristar is wholly owned by Mr. F. Thomas Wachendorfer, Jr., who also owns Ameristar Jet Charter, Inc. (AJC), an air taxi established in 1991, Sierra American Corporation, an aircraft leasing company established in 1990,² and Tom Wachendorfer Aviation, an aviation management company formed in 1982.³

Ameristar's sister company, AJC, currently conducts on-demand all-cargo operations using a fleet of 34 small aircraft as an air taxi operator. In addition to its own air taxi operations, AJC has been brokering larger cargo shipments that can not be accommodated by its fleet to cargo operators with aircraft such as DC-8s or 727s. Ameristar was formed by Mr. Wachendorfer for the purpose of accommodating those larger shipping needs of AJC.

Once certificated, Ameristar will provide all-cargo charter service using two B737-200C aircraft, leased from Sierra American, each with a payload capacity of 35,000 pounds. Initially, the primary focus of Ameristar's domestic operations will be between El Paso and Detroit. It also plans to provide foreign all-cargo air transportation between points in the United States and points primarily in Canada and Mexico.

¹ Information supplementing Ameristar's applications was filed on October 15, 1999. Ameristar requested that certain information contained in this supplement be withheld from public disclosure. By letter dated November 10, 1999, the Department granted Ameristar's request for confidential treatment of these documents.

² Sierra American's aircraft leasing business is currently limited to owning aircraft leased by AJC. The company intends to acquire and lease to Ameristar the two B737 aircraft Ameristar will utilize to conduct its operations.

³ The business operations of Tom Wachendorfer Aviation are currently inactive.

Part 215 Issues

On October 8, 1999, Amerijet International, Inc., an operating all-cargo certificated air carrier based in Ft. Lauderdale, filed an answer in opposition to Ameristar's applications. In its objection, Amerijet contends that the applicant's name "Ameristar" and that of its sister corporation "Ameristar Jet" are so similar to the name "Amerijet" that Amerijet believes it is justified in expressing concern about public confusion. Specifically, Amerijet argues that, while it does not resist new competition in any of the many markets it serves, it does oppose competition by carriers, such as Ameristar, providing equivalent service with equivalent equipment in its primary markets using a name so remarkably similar to its own that it seems that the new operator may be intentionally infringing on marks held as valuable assets by Amerijet. Amerijet suggests that Ameristar's adoption of its name was designed to confuse consumers at Amerijet's expense. Therefore, Amerijet requests that the Department investigate the applicant to determine the circumstances under which Ameristar and/or its affiliates adopted its corporate name and requests that the Department defer further consideration of Ameristar's applications until Amerijet has had a reasonable opportunity to undertake its own investigation of this matter. With respect to this request, Amerijet states that Ameristar will not be inconvenienced by this request given that under Subpart Q of the Department's regulations, Amerijet has 52 days from the date of Ameristar's application to request an oral hearing on the applications.

On October 14, 1999, Ameristar filed a response to Amerijet's answer. Ameristar contends that the answer submitted by Amerijet provides no legitimate basis to delay the prompt issuance of Ameristar's requested certificate authority. Specifically, Ameristar argues that Amerijet's allegations regarding trademark infringement are not only untrue but that such issues of trademark infringement are typically left by the Department for the parties themselves to resolve through the appropriate courts. Further, Ameristar notes that its name "Ameristar" was adopted for reasons completely unrelated to Amerijet. Specifically, Ameristar states that its name was based on its relationship to its sister company, AJC, which has conducted operations as "Ameristar Jet Charter" since 1991. Further, Ameristar states that while the names "Ameristar" and "Amerijet" both start with "Ameri," they are different from one another, and certainly not confusingly similar. In this regard, Ameristar notes that there are at least 24 air carriers with a name beginning with "Ameri" and that 6 of those names also include the word "jet." As a result, Ameristar believes that its name is sufficiently different from that of Amerijet and that no consumer confusion will result. Further, Ameristar notes that despite the fact that AJC has been operating on-demand all-cargo service since 1991, Amerijet has failed to cite even a single instance of actual customer confusion resulting from AJC's usage of the name "Ameristar Jet."

Under Part 215 of the Department's regulations concerning the use of names by air carriers, our role is purely an administrative one under which we do not make public interest determinations regarding name similarity issues. While the Department has authority under 49 U.S.C. 41712 to take enforcement action against unfair and

deceptive practices in the use of names. we have previously stated that the existence of name similarity alone, without evidence of actual or likely consumer harm, would not justify a finding of a section 41712 violation.⁴ No such consumer harm has been demonstrated here. Therefore, we will not defer consideration of Ameristar's applications for certificate authority,⁵ nor will we deny the applicant the use of the name "Ameristar." We encourage Amerijet to pursue any issues regarding trademark infringement it believes to exist with the appropriate court.

FITNESS

Managerial Competence

Mr. F. Thomas Wachendorfer, Jr., an Airframe and Powerplant Mechanic and Airline Transport Pilot, is Ameristar's founder and sole owner. He also serves as the applicant's President, Chief Executive Officer, and sole board member. In addition to his positions with Ameristar, Mr. Wachendorfer also holds similar positions with AJC, Sierra American, and Tom Wachendorfer Aviation, companies he started beginning in 1982 upon his college graduation.⁶

Mr. Daniel P. Hulsey, an Airline Transport Pilot, is Ameristar's Director of Operations. He joined the applicant after serving with Kitty Hawk Air Cargo for seven years in positions that included Chief Pilot, Assistant Director of Operations, check airman, and line pilot. Mr. Hulsey's other aviation experience includes nearly twenty years of employment as Chief Pilot, Director of Training, check airman, flight engineer, and flight instructor with companies that included Braniff International Airlines, Emerald Airlines, and Bahamasair.

Mr. Harry S. Piper, an Airframe and Powerplant Mechanic, serves as Ameristar's Director of Maintenance. Mr. Piper brings to the applicant over thirty years of aviation maintenance experience with many of those years spent in upper management positions with companies that included Air 4000 (Director of Maintenance), The CIT Group, Express One International, International Airline Service (President and General Manager), Zantop International Airlines (Director of Maintenance), Southern Airways, TransAmerican Airlines, and Universal Airlines.

⁴ See, for example, Orders 94-8-45, 95-2-31, and 95-3-5.

⁵ We note that Amerijet has had more than 52 days since the date of Ameristar's initial application in which to investigate the circumstances under which Ameristar adopted its corporate name and it has not filed any additional pleadings on this issue with the Department, nor did it request that an oral hearing on the subject applications be held within the timeframe allowed under our rules.

⁶ Mr. Wachendorfer has stated that, once Ameristar is operational, he will spend no more than 15 or 20 hours per week dealing with issues related to his other companies, thus devoting most of his time to overseeing and managing Ameristar's operations.

Mr. Harry E. Johnson, an Airframe and Powerplant Mechanic, is Ameristar's Director of Quality Assurance. Before joining Ameristar, Mr. Johnson had been self-employed as an aviation consultant for two years, Vice President of Maintenance Services for Aviation Services International for two years, a system support analyst for Merlin Express for one year, and Staff Vice President of Maintenance for Metro Airlines for four years. Prior to that time, Mr. Johnson was employed by the Federal Aviation Administration for over 28 years in positions that included Airworthiness Inspector, Principal Maintenance Inspector, and Supervisory Airworthiness Inspector.

Mr. David J. Cody, an Airline Transport Pilot with 24,000 hours of flight time, is Ameristar's Chief Pilot. Mr. Cody brings to the applicant considerable aviation experience that includes sixteen years of employment as a captain, training center evaluator, flight instructor, check airman, first officer, and flight engineer with companies such as Kitty Hawk Air Cargo, Polar Air Cargo, American International Airways, Laker Airways, Buffalo Airways, Bahamasair, Overseas National Airlines, and Hawaii Express. Mr. Cody's earliest aviation experience was spent serving as a pilot and Assistant Chief Pilot with Braniff Airlines for eighteen years.

Mr. Lindon M. Frazer, an Airframe and Powerplant Mechanic, is Ameristar's Director of Safety and AJC's Director of Maintenance, a position he assumed three years ago.⁷ In addition to his work with AJC, Mr. Frazer possesses eight other years of aviation maintenance experience that includes serving as Maintenance Controller for both Kitty Hawk Air Cargo and Corporate Jets, line mechanic for Dyn-Corp Airlift Support, sheet metal and quality assurance mechanic for B & M Associates, and technical representative for Global Helicopter Technology.

In view of the experience and background of the applicant's key personnel, we tentatively conclude that Ameristar has demonstrated that it has a management team who have the managerial skills and technical ability to conduct its proposed all-cargo charter operations.⁸

Financial Plan and Operating Proposal

If granted the certificate authority it seeks, Ameristar intends to provide all-cargo charter service using two B737-200C aircraft during most of its first year of

⁷ The FAA has advised us that Mr. Frazer does not need a formal deviation from section 119.67 of the Federal Aviation Regulations in order to hold the dual positions noted.

⁸ Before authorizing a carrier to conduct air transportation operations, the FAA also evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

operations.⁹ Initially, Ameristar's domestic operations will be concentrated between El Paso and Detroit. It also plans to provide foreign all-cargo air transportation between points in the United States and points in Canada and Mexico.

Ameristar has provided a list of its anticipated pre-operating costs and a detailed monthly estimate of its expenses for the first year of its proposed all-cargo operations. The company expects that its pre-operating expenses will total approximately \$315,000 and that it will incur \$5.48 million in operating expenses for its first year of operations.¹⁰ We have examined these estimates and find them to be reasonable. Based on our analysis of Ameristar's forecasts, the applicant will need access to resources of \$1.69 million to meet the Department's financial fitness criteria.¹¹

The applicant furnished a letter from BankOne verifying that Ameristar has access, through AJC, to a \$10 million line-of-credit.¹² Mr. Wachendorfer furnished an additional letter confirming that at least \$3 million of the \$10 million line-of-credit will be made available to Ameristar to be used to cover the costs associated with its proposed all-cargo operations.

Therefore, we tentatively conclude that Ameristar will have access to sufficient funds to undertake the proposed certificated operations without posing an undue risk to consumers or their funds.

Compliance Disposition

We also tentatively conclude that Ameristar has the proper regard for the laws and regulations governing its services to ensure that its aircraft and personnel conform to

⁹ Ameristar intends to commence operations with a single B737 and to add its second aircraft within the first three months of operations.

¹⁰ Ameristar has indicated that it will draw upon AJC's existing infrastructure, personnel, customer base, and experience to aid in establishing a successful all-cargo operation. This, as well as its relationship with its aircraft lessor, will enable Ameristar to keep its pre-operating costs low.

¹¹ In evaluating an applicant's financial fitness, the Department generally asks that the company have available to it sufficient resources to cover all pre-operating costs (in this case, \$315,000) plus a working capital reserve equal to the operating costs that would be incurred in three months of normal certificated operations. Because projected operations during one or more of the first three months of anticipated actual air transportation services frequently do not include all costs of operations that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast (in this case, one fourth of \$5.48 million is \$1.38 million). In calculating available resources, projected revenues may not be used.

¹² While the line-of-credit has been issued by BankOne to AJC, BankOne has confirmed that proceeds from this credit line may be used by AJC's sister companies, Sierra American and Ameristar.

applicable safety standards and that acceptable consumer relations practices will be followed.

Ameristar stated that, except as noted, there are no actions or outstanding judgments against it or its owner, its affiliates,¹³ or any of its officers or key personnel, and that there are no pending investigations or formal complaints that have been brought by the Department against any of these parties with respect to compliance with the statute or any orders, rules, or requirements issued pursuant to the statute. Ameristar also states that there have been no charges of unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violations brought against any of these parties and that, except as noted below, no actions have been taken by the FAA against the applicant, its owner, its affiliates, or any of its officers or key personnel.

In 1995, AJC and Mr. Wachendorfer accepted issuance of an Order of Suspension after an FAA inspection that initially resulted in the emergency revocation of each of their certificates. The FAA enforcement cases against AJC contained allegations involving the operation of unairworthy aircraft, use of unqualified pilot, and faulty training and maintenance recordkeeping, and the cases filed against Mr. Wachendorfer involved allegations relating to pilot training record falsifications. Mr. Wachendorfer and AJC appealed the FAA's emergency revocation actions and denied the allegations set forth in them. In June 1995, a hearing on the merits of the FAA's emergency revocation action was held and, after this hearing, the presiding Administrative Law Judge determined that the FAA had failed to meet its burden of proof and encouraged the FAA, AJC, and Mr. Wachendorfer to settle these cases. As a result, in July 1995, a Settlement Agreement was signed between the parties whereby the FAA agreed to withdraw its Emergency Orders against AJC and Mr. Wachendorfer. In addition, all of the allegations against Mr. Wachendorfer involving falsification were withdrawn in their entirety.

At present, only two FAA enforcement cases against AJC are pending. In both of these cases, civil penalties of under \$10,000 each are being sought. Further, our search of the Department's records found no other compliance problems with Ameristar, its owners, or its key personnel. In addition, the FAA has advised us that the company has applied for certification under Part 121 of the Federal Aviation Regulations and that it knows of no reason why we should act unfavorably on the company's applications.

CITIZENSHIP

Section 41102 requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section requires that the president and two-thirds of the board of directors and other managing

¹³ AJC is currently a defendant in a lawsuit in which the award being sought is approximately \$7,000.

officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Ameristar's sole owner and only board member, Mr. Wachendorfer, is a U.S. citizen. Further, each member of the applicant's senior management team is also a U.S. citizen. In addition, Ameristar has provided an affidavit attesting that it is a citizen of the United States within the meaning of the statute and that it is actually controlled by U.S. citizens. Finally, our review of the applicant's citizenship has uncovered no reason to suggest that control of Ameristar rests with non-U.S. citizens.

In view of the foregoing, we tentatively conclude that Ameristar is a U.S. citizen and is fit, willing, and able to provide the interstate and foreign charter all-cargo service it proposes.

PUBLIC CONVENIENCE AND NECESSITY

No finding of consistency with the public convenience and necessity is required for the award of authority for interstate charter air transportation of property and mail under section 41102, although such a finding is required for authority to engage in foreign charter air transportation.

We tentatively find that the foreign charter air transportation proposed by Ameristar is consistent with the public convenience and necessity. By Order 78-7-106, which instituted the *Former Large Irregular Air Service Investigation*, the Civil Aeronautics Board found that there was a continuing demand and need for additional charter air carriers. These findings remain valid and apply to the authority sought by Ameristar. Therefore, if Ameristar meets the fitness requirements of the statute, it will receive certificates authorizing it to engage in interstate and foreign charter air transportation of property and mail under section 41102.¹⁴

OBJECTIONS

We will give interested persons 14 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 7 days thereafter. We expect such persons to direct their objections, if any, to the applications and points at issue and to

¹⁴ Pursuant to 49 U.S.C. 41307, issuance of foreign authority to the applicant is subject to Presidential review.

support such objections with detailed economic analyses.¹⁵ We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to Ameristar's certification and fitness.

CERTIFICATE CONDITIONS AND LIMITATIONS

If Ameristar is found fit and issued the certificates it seeks, its authority will not become effective until the company has fulfilled all requirements for effectiveness as set forth in the terms and conditions attached to its certificates. Among other things, this includes our receipt of evidence that Ameristar has been certified by the FAA to engage in the subject operations, a fully-executed OST Form 4520 evidencing liability insurance coverage that meets the requirements of Part 205 of our rules, and a revised list of pre-operating expenses already paid and those remaining to be paid, along with third-party verification that the company continues to have available, either through deposits in its own name or a line-of-credit, sufficient funds to meet our financial fitness criteria.

Furthermore, we remind Ameristar of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a carrier is found fit initially, it must remain fit in order to hold its authority. To be assured that certificated air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent substantial changes they may undergo in areas affecting fitness. Moreover, the Department has adopted a policy, consistent with the recommendations of the FAA 90-Day Safety Review, issued September 16, 1996, of imposing conditions in fitness orders to facilitate appropriate monitoring of individual air carriers' growth.¹⁶ Our tentative findings stated above are based on the operating plan described in Ameristar's applications, which utilizes two B737-200C aircraft. These findings might no longer apply if the company were to substantially change the scope of its operations through the introduction of additional aircraft. Therefore, once the applicant's certificates become effective, should Ameristar propose to acquire any aircraft beyond the two B737 aircraft referenced in its applications, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to implementing service with any additional aircraft. Furthermore, should Ameristar propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5

¹⁵ If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedures should be specified (*see* Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

¹⁶ *See, e.g.*, Orders 97-10-22, 97-11-34, and 97-12-18.

of our rules.¹⁷ The compliance of the company with this requirement is essential if we are to carry out our responsibilities under the Statute.¹⁸

To aid the Department in its responsibility to monitor the fitness of new carriers, we have adopted a requirement that all start-up carriers must submit a detailed progress report within 45 days following the end of the first year of actual flight operations to the Air Carrier Fitness Division. The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,¹⁹ and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue orders making final our tentative findings and conclusions stated above and award certificates to Ameristar Air Cargo, Inc., authorizing it to engage in interstate and foreign charter air transportation of property and mail, subject to the attached specimen Terms, Conditions, and Limitations.

2. We direct any interested persons having objections to the issuance of orders making final any of the proposed findings, conclusions, or the certificate awards set forth here

¹⁷ In addition, by notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. Ameristar may contact our Air Carrier Fitness Division to report proposed substantial changes and to determine what additional information, if any, will be required under section 204.5. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

¹⁸ We also remind Ameristar about the requirements of section 204.7 of our rules. This section provides, among other things, that (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences operations for which it was found fit and subsequently ceases such operations, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

¹⁹ These financial statements should include a balance sheet as of the end of the company's first full year of actual flight operations and a twelve-month income statement ending that same date.

to file such objections with Department of Transportation Dockets, 400 7th Street, S.W., Washington, D.C. 20590, in Dockets OST-99-6221 and OST-99-6222, and serve them upon all persons listed in Attachment A no later than 14 days after the service date of this order; answers to objections shall be filed no later than 7 days thereafter.

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.

4. In the event that no objections are filed, we will consider all further procedural steps to be waived and we will enter orders making final our tentative findings and conclusions.²⁰

5. We will serve a copy of this order on the persons listed in Attachment A.

6. We will publish a notice of this order in the Federal Register.

By:

A. BRADLEY MIMS
Deputy Assistant Secretary for
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

²⁰ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.



SPECIMEN

Terms, Conditions, and Limitations

AMERISTAR AIR CARGO, INC.

is authorized to engage in interstate charter air transportation of property and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), or enter into contracts for the operations proposed under this certificate, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized

by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(4) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).

(5) The holder's authority is effective only to the extent that such operations are also authorized by the FAA.

(6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.

(8) The holder is not authorized to engage in air transportation operations between points within the State of Alaska.

(9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.

(10) In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.



SPECIMEN
Terms, Conditions, and Limitations

AMERISTAR AIR CARGO, INC.

is authorized to engage in foreign charter air transportation of property and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), or enter into contracts for the operations proposed under this certificate, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized

by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(4) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).

(5) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.

(6) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(7) The holder's authority is effective only to the extent that such operations are also authorized by the FAA.

(8) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(9) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(f)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder does not commence actual flying operations under this certificate within one year of the date of the Department's determination of its fitness, its authority shall be revoked for dormancy, unless the holder is conducting operations under another type of certificate authority. Further, in the event that the holder commences operations for which it was found "fit, willing, and able" and subsequently ceases all such operations, its authority under all certificates held shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

SERVICE LIST FOR AMERISTAR AIR CARGO, INC.

Attachment A

MR TOM WACHENDORFER
PRESIDENT
AMERISTAR AIR CARGO INC
4400 GLENN CURTISS DR STE 202
ADDISON TX 75001

MR LOUIS CUSIMANO AFS-900
MGR FLT STD CERT PRGMS
FEDERAL AVIATION ADMIN
45005 AVIATION DR STE 131
DULLES VA 20166-7537

MR ALAN MUTEN
AST TREASURER STE 800
AIRLINES REPORTING CORP
1530 WILSON BLVD
ARLINGTON VA 22209

MGR FLIGHT STANDARDS DIV
FAA ASW200
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